

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA**

<b>NEXTGEAR CAPITAL, INC.,</b>	:	
	:	
<b>Plaintiff</b>	:	<b>CIVIL ACTION NO. 3:18-1617</b>
	:	
<b>v</b>	:	
	:	<b>(JUDGE MANNION)</b>
<b>ANTONIO L. GUTIERREZ and</b>	:	
<b>PAUL GUTIERREZ,</b>	:	
	:	
<b>Defendants</b>	:	

**ORDER**

In accordance with the memorandum issued this same day, **IT IS  
HEREBY ORDERED THAT:**

- (1) Antonio Gutierrez's motion to set aside the default entered against him, **(Doc. 20)**, is **GRANTED**, and the clerk of court is directed to **VACATE** the entry of default, **(Doc. 8)**, as against Antonio Gutierrez;
- (2) Antonio Gutierrez's motion to dismiss, **(Doc. 20)**, NextGear's complaint, **(Doc. 1)**, is **GRANTED IN PART** and **DENIED IN PART**;
- (3) Antonio Gutierrez's motion to dismiss is **GRANTED** for lack of personal jurisdiction with respect to Count IV of NextGear's complaint, **(Doc. 1)**, conversion claim, and this claim is **DISMISSED**;
- (4) Antonio Gutierrez's motion to dismiss is **DENIED** with respect to

Count II of NextGear's complaint, **(Doc. 1)**, fraudulent transfer claim regarding the Poconos Property; and

- (5)** Antonio Gutierrez's is directed to file his answer to Count II of NextGear's complaint, **(Doc. 1)**, fraudulent transfer claim, within **14 days** of the date of this Order.

s/ *Malachy E. Mannion*  
**MALACHY E. MANNION**  
United States District Judge

**Date: April 29, 2019**

18-1617-02-ORDER.wpd